

## **REMARKS**

Claims 1, 5-12, 13, 23-26, 28-30, 39, 40, and 42-61 are pending in the application. Claims 2-4, 11, 41, 51-53 and 62-64 have been cancelled in this response. Claims 1, 23, 39, 42, 45, 48 and 60 have been amended; no new matter has been added. Applicants respectfully request reconsideration of the rejections set forth in the Office Action dated May 24, 2007 in light of the preceding amendments and following remarks.

### **In the Specification**

The Specification has been amended to correct for various typographical errors; no new matter has been added.

### **In the Claims**

Claims 1, 23, 39, 42, 45, 48, 51, 52, and 60 have been amended to recite aspects of a gas delivery device or a gas delivery system not taught or suggested by the art of record. Support for these amendments can be found throughout the Specification. Support for the gas delivery device and its specific claim features can be found on page 15 line 25 to page 18 line 2 and Figures 5A and 5B, for example. Support for the gas delivery system can be found on page 8 line 22 to page 13 line 23 and Figures 1-3B, for example.

### **Rejections Under 35 U.S.C. §103**

Claims 1-13, 23-26, 28-30 and 39-64 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,776,158 to Anderson et al. ('Anderson') in view of US Patent No. 4,520,808 to LaBauve ('LaBauve').

The independent claims now all recite subject matter not taught or suggested by Anderson and LaBauve.

Amended independent claim 1 now recites a combination of limitations not taught or suggested by the art of record. The limitations of dependent claims 2, 3, 4 and 11 have been added to independent claim 1. The Office Action dated May 24 failed to mention where Anderson or LaBauve teach the 'multiple living specimen interfaces horizontally disposed along a front face of the gas delivery device' limitation of claim 1. Also, the Office Action concedes that the each of the limitations of dependent claims 2, 3, 4 and 11 were not taught or suggested by Anderson or LaBauve, but instead asserts that each of these limitations is separately obvious –

without providing any motivation from the references to modify Anderson for each of the four changes. According to the Manual of Patent Examining Procedure (MPEP) § 2143: “To establish a *prima facie* case of obviousness, three basic criteria must be met. ... Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” Anderson and LaBauve lack at least five limitations from independent claim 1. Applicants respectfully submit that modifying Anderson with all the omissions of LaBauve, in addition to all the omissions of previously dependent claims 2, 3, 4 and 11, requires at least six ‘obvious modifications’, each of which requiring significant change to the primary reference but is not supported by the cited art, and is thus a dubious stretch for a proper obviousness rejection under 35 U.S.C. 103(a) of Anderson. Therefore, Applicants respectfully submit that amended independent claim 1 is allowable over the art of record.

Independent claims 23 and 45 now recite an opaque light barrier, which is not taught or suggested by the art of record, or permissible in view of LaBauve. Specifically, independent claims 23 and 45 recite “wherein the vertical slot is capable of receiving and holding an opaque light barrier... and b) an opaque light barrier for insertion in the vertical slot.” First, LaBauve does not teach an opaque light barrier. And the Office Action dated May 24 does not disclose where the art of record teaches such a light barrier. Second, while the Office Action points to the holding tubes 12 of LaBauve, the holding tubes 12 cannot be opaque since each holding tube 12 must allow a user to see the animal in the holding tube. In col. 3 line 59 to col. 4 line 3, LaBauve distinctly notes that a user pushes a plunger 42 to adapt the tube dimensions – and must not push against the animal since this will raise animal stress. However, if the tube 12 is opaque, a user cannot see the mouse and know when the plunger 42 compresses the mouse. LaBauve could not use – and thus does not teach or suggest - an opaque holding tube 12. Modifying LaBauve to create an opaque tube 12 violates several MPEP rules for the modification of a reference. Applicants respectfully point to MPEP 2141.02, which states: “A reference must be taken in its entirety, including those portions that teach away from the claims and argue against obviousness.” Please also see MPEP 2143.01: “The proposed modification cannot render the prior art unsatisfactory for its intended purpose”. Applicants respectfully submit that independent claims 23 and 45 are not obvious in view of these teachings in LaBauve and MPEP violations, and that independent claims 23 and 45 are allowable over the art of record.

Independent claims 39, 42 and 48 have been amended. Independent claim 39 now recites “a gas delivery device capable of simultaneously providing anesthesia gas and oxygen to multiple

mice, the gas delivery device comprising an inlet for receiving anesthesia gas and oxygen, a front face including multiple mouse interfaces horizontally disposed along the front face, and at least one channel for simultaneously communicating anesthesia gas and oxygen between the inlet and the multiple mouse interfaces, wherein the at least one channel comprises a buffer volume configured to substantially reduce flow rate fluctuations from the multiple specimen interfaces.” Independent claim 39 now recites “wherein the at least one channel that horizontally spans the multiple specimen interfaces and comprises a buffer volume configured to substantially reduce flow rate fluctuations from the multiple specimen interfaces.” Independent claim 48 now recites “wherein the at least one channel comprises a buffer volume configured to substantially reduce flow rate fluctuations from the multiple specimen interfaces despite fluctuations in the delivery of anesthesia gas and oxygen.” The art of record does not teach or suggest this combination of limitations including a buffer volume and the buffer volume details recited in independent claims 39, 42 and 48. The Office Action dated May 24 also failed to mention where Anderson or LaBauve taught or suggested a need for such a buffer volume. Accordingly, Applicants respectfully submit that amended independent claims 39, 42 and 48 are allowable over the art of record.

Independent claims 54 and 57 recite “a disposable member for insertion into the mouse interface and configured to at least partially receive the head of the mouse”. Anderson and LaBauve, either alone or in combination, do not teach or suggest this limitation. In addition, the Office Action dated May 24 also failed to mention where Anderson or LaBauve teach (or suggest a need for) “a disposable member for insertion into the mouse interface and configured to at least partially receive the head of the mouse” as recited. The cited art is silent on these limitations, or any need for them. For at least these reasons, the Applicants respectfully submit that independent claims 54 and 57 are allowable.

Independent claim 60 has been amended and now recites “a mouse interface including a hole in the front face, wherein the mouse interface is sized to ... provide the anesthesia gas and oxygen in a first direction” and “at least one hole in the front face adjacent to the mouse interface and capable of drawing in anesthesia gas in a second direction that is opposite to the first direction.” Anderson or LaBauve, either alone or in combination, do not teach or suggest this combination of limitations. LaBauve’s anesthesia system works in a tube 12 and provides the anesthesia flow initially to the mouse’s nose, where it flows over the mouse’s face, and then the anesthesia system collects the anesthesia well after flow over the mouse’s nose using a collection

exhaust plenum disposed peripherally behind the mouse's head. Accordingly, this anesthesia collection system inlets anesthesia gases a direction perpendicular to the anesthesia inlet, and cannot be readily modified to teach the claimed invention without compromising the exhaust plenum 16. Please see MPEP 2143.01: "The proposed modification cannot render the prior art unsatisfactory for its intended purpose". For at least these reasons, the Applicants respectfully submit that independent claim 60 is allowable.

Based on the foregoing, Applicants respectfully submit that all the pending independent claims recite limitations not taught or suggested by the art of record.

Claims 5-10, 12-13, 24-26, 28-30, 40, 43-44, 46-47, 49-50, 55-56, 58-59, and 61 each depend either directly or indirectly from independent claims 1, 23, 39, 42, 45, 48, 54, 57 and 60, and are patentable over the art of record for at least the reasons set forth above with respect to the independent claims. Further, the dependent claims recite additional elements which when taken in the context of the claimed invention further patentably distinguish the art of record.

Withdrawal of the rejections under 35 USC §103(a) is therefore respectfully requested.

Applicants believe that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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